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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,352	08/21/2003	Zenon Rypan		6750

7590

06/17/2005

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EXAMINER

LEUNG, PHILIP H

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/645,352

Applicant(s)

RYPAN, ZENON

Examiner

Philip H. Leung

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 19 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19 and 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-25-2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Applicant's election without traverse of Figures 5, 6, 15 and 16 in the reply filed on 4-11-2005 is acknowledged.
2. In the claim section, all claims should be listed, therefore claims 1-18 and 20 should be listed as "Claim 1-18 (cancelled)" and Claim 20 (cancelled)".
3. The claims (19 and 20-31) are objectionable because of the use of a statement within parentheses; for instance, "(according to Figs. 5 and 6)" in claim 19; "(as a pure spheroid, or sphere, Fig. 5)" and "(as an ellipsoid, where its horizontal axis is twice as big as a vertical)" in Claim 21; "(Figs. 5 and 15)" in claim 23; "(see new-drafted Fig. 17, supplied with this response)" in claim 25 and "(on-central-bottom falling) (see Figs. 15 and 16)" in claim 27; etc.. Furthermore, the note between claim 30 and claim 31 should be removed, as it is not a part of the claims. Also, the use of underlining (in claim 28) is not permissible in a new claim. Correction is suggested.
4. The drawings filed 8-21-2003 are acceptable. However, the new drawing sheet with a new Figure 17 filed 2-1-2005 is NOT acceptable as it includes new matter not supported in the original specification and therefore has NOT been entered.

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5. Claims 25 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As pointed out above, the new Figure 17 includes new matter not supported in the original disclosure. More specifically, the swirling orifice 431 is a new element NOT disclosed in the original specification and drawings. All new matter must be deleted from the claims.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 26-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 26-31 are vague and indefinite as they are each dependent upon a claim which has been cancelled. The term conical bundle 421 in claims 26 and 27 is not understood, as there is no description in the specification or the drawing. Clarification and correction are required but no new matter can be introduced.

8. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight (GB 2 266 039).

Knight shows a microwave oven comprising a case (1, 2, 3), a microwave cavity with a turntable 13, a machine compartment 2, a front door 4 for inserting and removing food, as shown in the drawings the outer housing of the microwave oven is substantially in the shape of an ellipsoid as claimed because the cavity is cylindrical with a flat top and bottom as claimed (claims 22-24). The exact shape would have been a matter of engineering design, as the outer housing does not affect the operation of the microwave operation.

11. Patentability of claims 25 and 28 cannot be determined as they include new matter not disclosed. Also, patentability of claims 26-31 cannot be determined because they depend on cancelled claims. However, Claesson et al (US 4,816,632) and You (US 5,880,442) are cited to show the well known use of a microwave oven chamber floor with rings and ridges to achieve uniform heating result.

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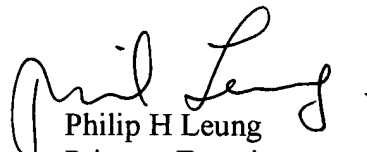
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chang (US 3,691,338) is further cited to show a microwave heating device having a cylindrical shape (Figure 1) or a spherical shape (Figure 5) that is the same as the shape claimed in claim 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip H Leung  
Primary Examiner  
Art Unit 3742

P.Leung/pl  
6-10-2005